

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

KENNETH P. RAINEY

PLAINTIFF

VS.

CAUSE NO. 3:07CV154-B-A

**CITY OF RIPLEY, MISSISSIPPI, COUNTY
OF TIPPAH, MISSISSIPPI, TIPPAH COUNTY
SHERIFF'S DEPARTMENT, CITY OF RIPLEY
POLICE DEPARTMENT, KEN WALKER, BERT WILKINS,
AND SCOTT WHITE**

DEFENDANTS

SPECIAL APPEARANCE MOTION OBJECTING TO CASE MANAGEMENT CONFERENCE

COME NOW, Tippah County, Mississippi, the Tippah County Sheriff's Department (if it is a separate entity than Tippah County, Mississippi) and Tippah County Deputy Sheriff Bert Wilkins and, by special appearance, request that the Case Management Conference be cancelled. This is a procedural request only and necessary due to an apparent lack of cohesion in the Federal Case Management ECF computer generated deadlines and the substantive law on Special Appearances. See for example the absence of Special Appearances on the ECF system menu as an available event. These Defendants have only appeared by Special Appearance and are not yet subject to the jurisdiction of this Court for case management purposes as noted in the Motion to Dismiss filed as docket document 9. Participation in the Case Management Conference may be construed as a General Appearance and not as a Special Appearance. These parties should not be forced to give up substantive defenses in order to comply with the initial Rule 16 order, or, if compelled to participate, then doing so should not be construed as a general appearance, or a waiver of defenses, or in any way a compromise of the merits of the pending Motions to Dismiss. These Defendants ask the Case Management Conference be cancelled until a ruling on the

Motions to Dismiss, or if compelled to participate in the Case Management Conference, that such not change in any way the current limited appearance of these Defendants or the defenses of same.

This the 14th day of April, 2009.

Respectfully submitted,

/s/Katherine S. Kerby MSB # 3584

Kerby Law Firm L.L.C.

Attorney for Defendants, Tippah County,
Mississippi, Tippah County Sheriff's Department,
and Bert Wilkins

OF COUNSEL:

Katherine S. Kerby,

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CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of April, 2009, I electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

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/s/Katherine S. Kerby

KATHERINE S. KERBY